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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,702	09/29/2003	Mathilde Benveniste	AVA04-02	6414
51038	7590	05/15/2008	EXAMINER	
CHAPIN INTELLECTUAL PROPERTY LAW, LLC			D AGOSTA, STEPHEN M	
WESTBOROUGH OFFICE PARK				
1700 WEST PARK DRIVE, SUITE 280			ART UNIT	PAPER NUMBER
WESTBOROUGH, MA 01581			2617	
			MAIL DATE	DELIVERY MODE
			05/15/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/673,702	BENVENISTE, MATHILDE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen M. D'Agosta	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 January 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,3-5,10,12-17,21 and 22 is/are rejected.  
 7) Claim(s) 7-9 and 18-20 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .



## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 1-31-2008 have been fully considered but they are not persuasive.

1. A new examiner (Stephen D'Agosta) has been assigned to this case.
2. The specification change is acknowledged.
3. The examiner's claim objections are overcome via the amendment.
4. The examiner's Double Patenting rejection still stands and will require a signed/executed Terminal Disclaimer. Since it appears that the applicant is agreeing with the examiner's DP rejection, there is truly no need to "stall/hesitate" in sending the TD unless the applicant is going to amend in completely new material to obviate the DP rejection (?).
5. The USC 112 rejection is overcome via the amendment.
6. With regard to the applicant's argument that the prior art (Ho) does not reject the claim scope presented, the examiner disagrees for several reasons.
  - i) The applicant's claims must be given their broadest reasonable interpretation. The claims merely state that a temporal period and offset are "identified" and Ho clearly shows that concept. Figure 3 shows an RP/RPI is identified (eg. temporal period) and offsets are used within the period (eg. RR's sent). Thusly, while Ho does not use the same language as the applicant, the concept is nonetheless found in his teachings.
  - ii) Ho's figure 3 shows that the concepts of a "period" and "offsets" are used but in a different manner. Ho appears to determine/request a time period for transmission and then use said time period in any manner he chooses (eg. figure 3 shows the transmission of 3 separate data packets). The offset is "implied" since the user station

has effectively blocked off a time period for its exclusive use and can transmit at anytime during that period.

iii) The last reason is most important, the applicant's claims do not "tie together" their concept of supporting multiple users and simultaneously having them transmit within the SAME time period, thusly Ho's teachings properly reject the claim. Since Ho allows a user to seemingly block off a period of time, the offsets are implied (actually not needed) since that one user has exclusive use of that time period (eg. figure 3 shows three different frames being sent at Offset-1, Offset-2 and Offset-3).

If the applicant were to amend their claims to include the **a)** simultaneous support of multiple stations and **b)** simultaneous calculation of the offsets to arrive at transmit times that "interleave" in ONE common/simultaneous time period, then this would overcome Ho's teachings.

Put another way, the offset is only give "novel weight" if/when it is fully incorporated into a multi-user environment where a time-period is NOT exclusively owned by one user (as taught by Ho). Therefore, it is the examiner's conclusion that figure 3 shows a temporal time period and temporal offsets.

7. The remaining arguments appear to recite the same argument (eg. Ho's supposed non-teaching of temporal time period and offset), hence these arguments are rebutted as well.

8. Note that the amendments to claims 4, 13, 16, 20 and 22 do not change the overall scope of the claim and they remain rejected (no new rejection required).

9. Upon further consideration, the examiner believes claims 7-9 and 18-20 **contain novel material.**

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/  
Primary Examiner, Art Unit 2617